

### REMARKS

This amendment is filed concurrently with a Request for Continued Examination and is also fully responsive to the Official Action mailed December 20, 2005. Claims 1-27 have been cancelled without prejudice and new claims 28-54 have been added. Reconsideration and allowance of the pending claims in light of this amendment are respectfully requested.

These amendments add no new matter. With regard to claims 28-44, the display of the synchronized contest is described in connection with FIG. 8 and the corresponding description, such as set forth in ¶¶0091-0101 of the specification as set forth in U.S. Pub. No. 2004/0244060. With regard to claims 45-54, the provision of premium content is described in connection with FIG. 7 and the corresponding description, such as set forth in ¶¶0069-0090.

Claims 1 and 3-14 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. Pub. No. 2003/0112354 to Ortiz ("Ortiz"), and claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Ortiz in view of U.S. Pub. No. 2002/0038259 to Bergman et al. ("Bergman").

New claims 45-54 generally correspond to cancelled claims 1-14 and are neither disclosed nor suggested by Ortiz or Bergman, taken alone or in any combination.

Particularly, new independent claim 45 recites *[a] method for providing selective access rights at an entertainment event, the method comprising:*

*detecting a first portable device within an area corresponding to the entertainment event;*

*detecting profile information corresponding to the first portable device, the profile information including a first status level that differs from a second status level detected as corresponding to a second portable device; and*

*providing a premium access right through the first portable device based upon detecting the profile information to include the first status level, the premium access right being superior to access rights available through the second portable device.*

Ortiz discloses the wireless transmission of in-play camera views to hand held devices, such as at a sporting event. The hand held device typically plays for the corresponding user

video or the like corresponding to the event in question. Security is also provided so as to ensure that the hand held device has authorization to receive the relevant wireless data. (Ortiz, at ¶0059). However, with Ortiz, there is no apparent distinction among multiple portable devices based upon detected profile information that includes a status level. Nor does there appear to be any access to premium content that is based upon the detected status level. Accordingly, Ortiz fails to disclose or suggest *“providing a premium access right through the first portable device based upon detecting the profile information to include the first status level, the premium access right being superior to access rights available through the second portable device”* as claimed by Applicant.

Bergman does not remedy the deficiencies of Ortiz. Bergman discloses portable devices that are used to order and sell food at venues. For example, a spectator might wish to order food for delivery to their seat while watching a sporting event. As with Ortiz, there is no disclosure or suggestion of discriminating devices based upon detected status levels, and providing premium access rights through the relevant portable device according to the detected status level.

For similar reasons, Applicant submits that independent claim 50, and, for their incorporation of the features recited in their independent claims as well as their own distinct features, dependent claims 46-49 and 51-54 are neither disclosed nor suggested by Ortiz and Bergman.

Accordingly, Ortiz and Bergman, whether taken alone or in any combination, fail to disclose features recited in Applicant's claimed invention, and Applicant respectfully requests reconsideration and withdrawal of the rejections of record.

Claims 15-27 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,508,706 to Sitrick et al. (“Sitrick”).

Claims 28-44 generally correspond to cancelled claims 15-27 and are not disclosed (or suggested) by Sitrick.

Particularly, claim 28 recites *[a] method for displaying synchronized contests involving characters associated with portable devices, the method comprising:*

*associating with a first portable device a first character having a first status level;*

*detecting a second portable device within a proximity of the first portable device, a second character having a second status level being associated with the second portable device;*  
*comparing the first status level with the second status level; and*  
*displaying on the first portable device a synchronized graphical display of a contest between the first and second characters, with an outcome of the contest being determined based upon the comparison of the first and second status levels.*

Sitrick discloses an electronic interactive gaming apparatus that may be referred to as an electronic trading card (ETC). Sitrick provides feedback to a user relating to group social behavior through implementation of interaction rules. (Sitrick, Abstract). A “persona” corresponding to an ETC device may have numerous attributes. (Sitrick, 7:65-8:57). Various interactions such as where one ETC asks for or provides information to another are described. (Sitrick, 8:58-9:27). Transfer of possessions pursuant to such interaction is governed by the rules. (Sitrick, 9:28-35).

Sitrick offers no apparent disclosure or suggestion of “*displaying on the first portable device a synchronized graphical display involving a contest between the first and second characters, with an outcome of the contest being determined based upon the comparison of the first and second status levels*” as claimed by Applicant. Sitrick repeatedly describes group social behavior and corresponding interactions between personas. Any reference to the results of such interactions appears to address the maintenance of certain possessions. For example, wealth, wisdom, health, rank and sex are said to be transferred (*e.g.*, given, or taken), but there is no apparent disclosure or suggestion of a battle or other type of contest occurring between characters and being displayed. Nor, clearly, is there any disclosure whatsoever in Sitrick of the provision of a synchronized graphical display of such a contest, as claimed by Applicant.

Accordingly, Applicant submits that Sitrick neither discloses nor suggests features recited in independent claim 28 and requests reconsideration and withdrawal of the rejection in that regard. Applicant also submits that independent claims 34 and 40, and dependent claims 29-33, 35-39 and 41-44 are similarly neither disclosed nor suggested by Sitrick.

For the foregoing reasons, reconsideration and allowance of the claims which remain in this application are solicited. If any further issues remain, the Examiner is invited to telephone the undersigned to resolve them.

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Respectfully submitted,

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